



2026:AHC:53528

**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**WRIT - C No. - 9858 of 2026**

Sree Balaji Maharaj Mahavidyalaya Nagla Garhi

.....Petitioner(s)

Versus

State Of U.P. And 2 Others

.....Respondent(s)

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|---------------------------|---|--------------------------|
| Counsel for Petitioner(s) | : | Sanjay Kumar Dubey       |
| Counsel for Respondent(s) | : | C.S.C., Shambhavi Tiwari |

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**Court No. - 37**

**HON'BLE KSHITIJ SHAILENDRA, J.**

1. Heard Shri Sanjay Kumar Dubey, learned counsel for the petitioner, learned Standing Counsel for respondent No.1 and Ms. Shambhavi Tiwari, learned Advocate for respondents No.2 and 3.

2. The petitioner, at the strength of a judgment dated 21.12.2016 passed in Writ C No.12506 of 2016, has filed the present writ petition praying for a writ of mandamus commanding the respondents to return enhanced examination fees amount deposited by the petitioner Institution for educational session 2015-16.

3. Submission has been made that when the Executive Council of the University, in the year 2016, took a decision to charge enhanced fees from retrospective effect, this Court intervened in writ petition filed by 68 Institutions, the said decision of the Executive Council was set aside and it was observed that the University shall be entitled to charge enhanced fees w.e.f. 26.11.2016. It is, therefore, contended that since the Institution had deposited enhanced fees for the Session 2015-16 i.e. prior to cut-off-date determined by this Court, it is entitled to get refund and though an application has been moved by the petitioner before the University, no decision has been taken thereon, nor the amount has been refunded.

4. Ms. Tiwari, opposing the submissions, has argued that the decision of writ Court is of the year 2016 and, for the first time, the petitioner moved an application in the year 2024, i.e. after 8 years and such a highly belated claim cannot be entertained. It is further submitted that under identical circumstances when writ Court had issued direction for refund of amount already collected, the said direction was set aside by Special Appellate

Bench in the case of **M.J.P. Rohilkhand University and others v. Self Finance College Welfare Association and others : 2015 (7) ADJ 709 (DB)**.

5. Submission is that cogent reasoning was assigned in 9<sup>th</sup> paragraph of the said decision to the effect that such a refund would not necessarily result in a situation where the fees would directly reach the hands of the students to whom the fees would have to be given as some of them might have left their colleges having completed the courses. It was further observed that writ Court had no data or material to indicate that as to how many students were there from whom the fees was collected; how many students were still pursuing their education in constituent or affiliated colleges and how many had left their courses of study either by completing their courses or otherwise.

6. It is, therefore, contended that apart from a highly belated claim, the writ petition cannot be entertained on merits and it should be dismissed.

7. I have considered the submissions advanced by learned counsel for the parties and have perused the material available on record.

8. There is no dispute about the fact that the petitioner's claim is simply based upon decision of the writ Court passed in the year 2016 and, for the first time, it has moved application in the year 2024. Money claims, if at all they have any substance, should be put before the person/body against whom the said claim is set up within reasonable period of time and in civil proceedings also, Limitation Act, 1963 provides three years period of limitation for making such claims, otherwise the suit for claiming refund would be barred by limitation.

9. Though the provisions of Limitation Act are not strictly applicable to writ jurisdiction, however, exercise of jurisdiction under Article 226 of the Constitution of India is certainly dependent upon promptness of the litigant in approaching the writ Court.

10. Paragraph 13 of the writ petition explaining delay/laches indicates that petitioner was allegedly having hope that University would comply with order dated 21.12.2016 and once it was not complied with, the petitioner put a claim in the year 2025.

11. The explanation offered for inordinate delay is not acceptable.

12. Even otherwise, once the Division Bench in the case of **M.J.P. Rohilkhand University** (supra) has already dealt with the identical situation and set aside the directions which the petitioner now seeks from this Court, there is no good reason to entertain the present petition on merits also. For a ready reference, paragraph 9 of the said judgment needs reproduction:-

“9.The remaining question that survives for consideration is in regard to the ultimate relief which was granted by the learned Single Judge. The University has already realized the development fee through the constituent colleges which collected the fee from individual students which was then remitted to the University. The learned Single Judge directed the University to refund the fee to the colleges with a further direction to the colleges to refund the fee to the students. In our view, this would not necessarily result in a situation where the fee would directly reach the hands of students to whom the fee would have to be given. Some of them may have left their colleges having completed the courses. The learned Single Judge had no data or material that would indicate how many students was the fee collected from; how many students were still pursuing their education in constituent or affiliated colleges and how many had left their courses of study either by completing their courses or otherwise. The order of the learned Single Judge should not in our view result in a situation where the colleges ultimately retain the fee upon the refund being made by the University without the students obtaining a refund of the fees which they have paid. In our view, such a direction was not warranted. In the absence of sufficient data and in the absence of details of students before the Court, it would not be appropriate or proper to issue such a direction. That part of the direction consequently shall stand quashed and set aside. We, however, sustain the declaration by the Single Judge that the levy of a Development fee without framing an Ordinance under Section 52 of the Act is *ultra vires* and illegal. ”

13. For all the aforesaid reasons, the writ petition, apart from being highly barred by latches, does not have any merit. The same is, therefore, **dismissed**.

**(Kshitij Shailendra,J.)**

**March 17, 2026**  
Jyotsana